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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,349	01/25/2002	David Battat	D/A0898(1508/3480)	9621
7590	12/02/2003		EXAMINER	
Gunnar G. Leinberg, Esq. Nixon Peabody LLP Clinton Square P.O. Box 31051 Rochester, NY 14603-1051			CHARLES, MARCUS	
			ART UNIT	PAPER NUMBER
			3682	
DATE MAILED: 12/02/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/055,349	BATTAT ET AL.	
	Examiner	Art Unit	
	Marcus Charles	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 October 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3, 6-17 and 20-23 is/are rejected.
- 7) Claim(s) 4-5, 18 and 19 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to the amendment filed 10-02-2003, which has been entered.

Claims 1-23 are currently pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6, 10 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Dalebout et al.(5,951,441). Dalebout et al. discloses a belt comprising a substrate (18/50) having a first and second surfaces and first and second ends, which form a seam, an elastomer (20/30) having first and second ends and surfaces, wherein the elastomer is adjacent and in contact with the first surface of the substrate and the first and second ends of the elastomer form an interlocking puzzle cut seam (col.4, lines 26-34).

In claims 6 and 20, Dalebout discloses the first seam is bonded with an adhesive (col. 5, lines 5-15).

Note in claim 10, Dalbout et al. clearly discloses that the ends 56/58 can be bonded by adhesive and tapes (Col. 5, lines 9-15).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3682

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3, 11, 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalebout et al. in view of Driver(1,728,673). Dalebout et al. discloses one seam is interlocked but does not disclose both or the seams are interlocked. Driver discloses a belt with adjacent materials (1, 2) in contact with each other having interlocking ends in order to create a smooth, flat surface to an strengthen the seamed joints. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the belt of Dalebout so that both seamed joints are interlocking joints in view of Driver in order to create a smooth, flat surface and to an strengthen the seamed joints.

In claim 3, it is apparent that each interlocking seam includes a kerf (5) so as to allow the adhesive to seal the ends. (fig. 1).

In claims 16-17, it is apparent that the method steps would be inherently included during the manufacturing of Dalebout et al. in view of Driver device.

5. Claims 7-9, 12-14 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalebout et al. Dalebout does not disclose the belts modulus of elasticity and thickness, and the elastomeric layer thickness. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the belt so that it has a modulus of elasticity of 75PSI to about 3000Psi, the belt has thickness of 0.25 mm to about 5mm mm and the elastomeric layer has a thickness of 0.25 mm to about 4.75 mm, since it has been held that where the general conditions of a claim are

disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Allowable Subject Matter

6. Claims 4-5 and 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 10-02-2003 have been fully considered but they are not persuasive.

8. Applicant's arguments with respect to claims 1, 10 and 15 have been considered but are moot in view of the new ground(s) of rejection.

9. In response to applicant's argument that the seam of Dalebout et al. is not an interlocking an interlocking seam comprising puzzle cuts and the that the belt is not a conformable belt with interlocking puzzle cuts. It should be noted that Dalbout et al. clearly disclose the belt having interlocking fingers (42/44) that interlocks (col.4, lines 26-34) and the zigzag cuts fits the definition of a puzzle cut. In addition, there is no structure in the claim to differentiate the belt. Therefore once the structural limitation of the belt of the claimed invention meets the structural limitation of the belt of the prior art the rejection is proper.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday -Thursday 7:30 am-600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.


Marcus Charles
Primary Examiner
Art Unit 3682
November 21, 2003